

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

JOHN COREY FRASER, et al., on behalf of
themselves and all others similarly situated as a
Class,

Plaintiffs,

v.

BUREAU OF ALCOHOL, TOBACCO,
FIREARMS, AND EXPLOSIVES, et al.,

Defendants.

Civil Action No. 3:22CV00410

JOINT MOTION TO AMEND ORDER

Defendants, on behalf of all parties, respectfully move this Court to amend the January 27, 2023 Order (ECF No. 33) recently entered in this action in the manner and for the reasons described below.

As good cause for this request, Defendants state:

1. On January 27, 2023, the Court issued an order that, “by February 6, 2023, the parties shall jointly assemble and submit two copies of the legislative history of the statute and the regulations at issue in tabbed and indexed notebooks.” Order (Jan. 27, 2023), ECF No. 33. Upon receipt of this order, Defendants began working on compliance regarding the legislative history of the Gun Control Act of 1968 (the “Act”).

2. There is no official and complete collection of legislative history for the Act of which Defendants are aware. A partial compilation of the legislative history is available at HeinOnline: <https://heinonline.org/HOL/Index?index=gun/lhigunctro&collection=leghis>. This partial compilation was created by the law firm Covington & Burling, and it is unclear for what purpose it was compiled.

3. The documents contained in that partial compilation total approximately 4,000 pages. However, a review of the contents reveals that it is incomplete, as it does not include several of the

documents cited in Defendants' brief that are part of the legislative history of the Act. *See* Mem. in Support of Mot. to Dismiss, ECF No. 22, at 5–6, 8–10. Defendants therefore estimate that the complete set of documents that could be deemed to be part of the legislative history of the Act likely far exceeds 4,000 pages. As such, it is not feasible for the parties to compile and print a comprehensive legislative history in the 10 days allotted by the Court's order. And even if the parties could produce a comprehensive legislative history of the Act, most of this material would not be relevant to the specific statutory provision challenged in this lawsuit, *i.e.*, the prohibition on sales of handguns by federally licensed firearm dealers to individuals between the ages of eighteen and twenty.

4. Defendants have identified the materials from the legislative history that they consider relevant to the issues raised in this case and have solicited from Plaintiffs any additional materials that they consider relevant.¹

5. Accordingly, the parties respectfully request that the Court modify its order to allow the parties to submit two notebooks of the materials from the legislative history on which the parties rely and which they consider relevant to the issues in this case.

6. A proposed order is attached hereto.

Wherefore, the parties jointly move the Court to modify its previously entered Order of January 27, 2023, ECF No. 33, as set forth herein, and for such further relief as the Court deems appropriate.

//

//

//

¹ Regarding the legislative history of the challenged regulation, 27 C.F.R. § 478.99, *see* Order (Jan. 27, 2023), ECF No. 33, the parties intend to include the Notice of Proposed Rulemaking and the Final Rule.

Dated: February 2, 2023

Respectfully submitted,

JESSICA D. ABER
UNITED STATES ATTORNEY

By: /s/ Jonathan H. Hambrick
Jonathan H. Hambrick
VSB No. 37590
Office of the United States Attorney
600 East Main Street, Suite 1800
Richmond, Virginia 23219
(804) 819-5400 (phone)
(804) 819-7417 (fax)
jay.h.hambrick@usdoj.gov

BRIAN M. BOYNTON
Principal Deputy Assistant Attorney General

LESLEY FARBY
Assistant Branch Director

MICHAEL P. CLENDENEN (D.C. Bar No. 1660091)
Trial Attorney
DANIEL RIESS
Senior Counsel
U.S. Department of Justice
Civil Division, Federal Programs Branch
1100 L Street, NW
Washington, D.C. 20005
Tel: (202) 305-0693
Fax: (202) 616-8460
michael.p.cledenene@usdoj.gov

Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of February, 2023, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to the following:

Elliott Harding, Esquire
Harding Counsel, PLLC
608 Elizabeth Avenue
Charlottesville, VA 22901

/s/ Jonathan H. Hambrick
Jonathan H. Hambrick
VSB No. 37590
Attorney for the Defendants
Office of the United States Attorney
919 East Main Street, Suite 1900
Richmond, Virginia 23219
Telephone: (804) 819-5400
Facsimile: (804) 771-2316
Email: jay.h.hambrick@usdoj.gov